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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/697,316	10/27/2000	Mark Stallmann	110275.4300US1	3937

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EXAMINER
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JEANTY, ROMAIN

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/697,316

Applicant(s)

STALLMANN, MARK

Examiner

Romain Jeanty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 and 8. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Claim Objections**

1. Claim 1 is objected to because of the following informalities: Line 8, it appears that "manufacturing" should be -- manufacturing --". Appropriate correction is required.

### **Information Disclosure Statement**

2. The information disclosure statement (IDS) submitted on 5/22/2001 and 9/16/2002 is being considered by the examiner. The submission is in compliance with the provisions of 37 CFR 1.97. However, the information disclosure statement filed 11/13/2001 (paper No. 7) fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the reference number is not cited in the PTO-1449 form. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

### **Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the plurality reformats ". There is insufficient antecedent basis for this limitation in the claim or claims on which they depend. For examination purposes, the limitation has been construed as "plurality of formats. Appropriate action is required in each instance."

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 15-16, 20, 31-32, 35-36, 44-45 and 48-53 are rejected under 35 U.S.C. 102(b) as being anticipated over Wicher et al (U.S. Patent No. 5,608,643).

As per claims 1, 44-45 and 48-53, Wichter et al disclose aggregating "collecting" and analyzing data from a plurality of data generating machines "dispensing units" comprising:

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a plurality of data generating machines “dispensing units” (see figure 1) each transmitting data pertaining to at least one monitored sales event, said at least one monitored sales event capable of corresponding to a plurality of different products from a plurality of sales, distribution or manufacturing sources effectuated or managed by each of said plurality of data generating machines “dispensing units” via at least one of a satellite network (col. 3, lines 51-67; col. 5, lines 32-51);

at least one computer, responsively connectable to said plurality of data generating machines “dispensing units” via said at least one of a satellite network, receiving and cumulatively storing the data transmitted by each of said plurality of data generating machines “dispensing units” corresponding to a predetermined time period (i.e. transmitting the sale data to a central controller) (col. 5, line 32 through col. 6 line 8), and including at least one application software program running thereon that analyzes the aggregated data (collecting the sales history data by time period and a various report and analysis can be generated (col. 14, lines 19-30).

As per claim 2, Wichter et al disclose the system according to claim 1, wherein said plurality of data generating machines is capable of transmitting the data utilizing a plurality of data formats, and wherein said at least one computer stores and at least one of formats and interprets the transmitted data utilizing at least one of said plurality of data formats prior to cumulatively storing the transmitted data (col. 8, lines 48-57).

Claim 15 is essentially the same as system claim 1 except it is directed to a method of collecting and aggregating data from a plurality of data generating machine, and is rejected under the same rationale as applied to independent claim 1 above.

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Claim 16 is essentially the same as system claim 2 except that it is directed to a method step, and is rejected for the same reason as applied to the claim 2 above.

As per claims 20 and 35, Wichter et al further disclose the method according to claim 15 wherein at least one application software program is used to analyze the stored data (col. 8, lines 20-21).

Claim 31, 32, 36 are essentially the same as system claim1 except that they are directed to a computer readable medium storing instructions executable, the instruction instructing the computer to aggregate and analyze data from a plurality of data generating machines, and are rejected for the same reason as applied to the claim 1 above.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-4 and 13-14, 17-18, 25, 27-30, 33-34, 41, 43, and 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wichter et al (U.S. Patent No. 5,608,643).

As per claims 3, 29, 33, 43 and 46, Wichter et al teach the idea analyzing the collected data. But Wichter et al do not explicitly disclose determining at least one of consumer buying habits and preferences. However, Official Notice is taken that determining a client/customer habits and preferences based on collected data is old and well known in the marketing art for determining which products are likely to be in great demand for particular client/customer or for

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particular regions based on sales collected data. It would have been obvious to a person of ordinary skill in the art to modify Wichter et al's disclosure to incorporate this well known feature with the motivation to determine which products are likely to be in great demand for particular the desired client/customer.

As per claims 4, 34, 47, Wichter et al disclose the use of satellite network but fail to explicitly disclose least one intelligent routing device operatively connected thereto that selects a least cost data transmission path over at least one of said at least one terrestrial, Internet, satellite and landline network. Incorporating selecting a least cost data transmission path over at least a terrestrial, Internet satellite and landline or any other type of communication network into Wichter et al would have been obvious to a person of ordinary skill in the art because it would provide a convenient and cost-effect method for sending a packet data transmission when a satellite communication is not available.

As per claim13, Wichter et al discloses an application software for monitoring the dispensing units. However, Wichter et al fail to explicitly disclose wherein the application software program provides a recommended replenishment schedule and/or replenishment goods for at least one of said plurality of data generating machines. It would have been obvious to a person of ordinary skill in the art to recommend replenishment schedule and/or replenishment goods for at least one of said plurality of dispensing units of Wichter et al with the motivation to provide a continuous update of the inventory in the dispensing units/vending machines.

As per claims 14 and 27-28 and 30, it is noted that Wichter et al do not explicitly disclose wherein a third party accesses the stored aggregated data via said at least one

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computer. However, allowing a third party such an advertiser access to aggregated/collected data would have been obvious to a person of ordinary skill in the marketing art with the motivation to allow the advertiser to obtain product preference information about a consumer.

With respect to claim 17, it is rejected based upon similar rationale as above dependent claim 3.

With respect to claim 18, it is rejected based upon similar rationale as above dependent claim 4.

As per claims 25 and 41, Wichter et al do not explicitly disclose transmitting the audible and/or visual advertisements in accordance with a predetermined network transmission cost. It would have been obvious to a person of ordinary skill in the to transmit tan advertisement to the in accordance with a predetermined network transmission cost with the motivation to reduce the cost of transmitting the advertisement.

9. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wichter et al (U.S. Patent No. 5,608,643).

As per claim 42, it is noted that Witcher et al do not explicitly disclose transmitting at one or more times corresponding to a predetermined level of network traffic. It would have been obvious to a person of ordinary skill in the art to transmit the advertisement at a time corresponding to predetermined level network traffic with the motivation to reduce the flow of traffic in the network.

10. Claims 5-10, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wichter et al (U.S. Patent No. 5,608,643) in view of Petite (U.S. Patent No. 6,628,764).



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As per claim 5, Wichter et al do not explicitly disclose at least one gateway device performing a data transmission protocol conversion between at least one first network and at least one second network among said at least one of the terrestrial, Internet, satellite and landline networks that operatively communicate with each other. Petite discloses a system for requesting service of a vending machine comprising gateway computers for managing services vending service machines (col. 9, lines 39-66). It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Wichter et al's teachings to incorporate the gateway computers as evidenced by Petite with the motivation to receive and transmit data to the vending machine effectively.

As per claim 6, Wichter et al do not explicitly disclose wherein a transceiver in at least one of said plurality of data generating machines transmits data using a same data transmission protocol as one of the respective satellite networks to which it transmits. Petite on the other hand, discloses Petite a system for requesting service of a vending machine comprising a transceiver and transmission protocol for transmitting data to the vending machine (col. 7, lines 4-21). It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Wichter et al's teachings to incorporate the gateway computers as evidenced by Petite with the motivation to receive and transmit data to the vending machine effectively.

As per claim 7, Wichter et al further discloses the system according to claim 1 wherein each of said plurality of data generating machines comprises a processor with storage configured to accumulate data corresponding to the at least one monitored sales event occurring in each of said plurality of data generating machines, wherein a transceiver transmits the accumulated data

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to said at least one first computer via at least one of the respective Internet network (See figure 3, element 54; col. 9, lines 26-40). Wichter et al do not explicitly disclose wherein a transceiver transmits the accumulated "collected" data to said at least one computer via the satellite network. Petite on the other hand, discloses Petite a system for requesting service of a vending machine comprising a transceiver for transmitting data to the vending machine (col. 7, lines 4-21). It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Wichter et al's teachings to incorporate the gateway computers as evidenced by Petite with the motivation to receive and transmit data to the vending machine effectively.

As per claim 8, Wichter et al do not explicitly disclose at least one gateway positioned between at least one of said plurality of data generating machines and at least one of the terrestrial, Internet, satellite and landline network, wherein said at least one gateway enables the transceiver of at least one of said at least one data generating machine and the respective terrestrial, Internet, satellite and landline network to which it transmits to operatively communicate. Petite discloses a system for requesting service of a vending machine comprising gateway computers for managing services vending service machines (col. 9, lines 39-66). It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Wichter et al's teachings to incorporate the gateway computers as evidenced by Petite with the motivation to receive and transmit data to the vending machine effectively.

As per claims 9 and 10, Wichter et al further disclose the system according to claim 7 wherein the processor is configured to accumulate, for each of said plurality of data generating machines, data corresponding to at least one of alarm conditions (col. 1, lines 43-45) and a, machine serial number "dispensing unit serial number" (col.15, line 1).

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With respect to claim 19 it is rejected based upon similar rationale as above dependent claim 5.

11. Claims 11-12, 21-24, 26, 37-40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wichter et al (U.S. Patent No. 5,608,643) in view of Weigen (U.S. Patent No. 6,578,728).

As per claims 11-12 and 37-40, Wichter et al do not explicitly disclose wherein said at least one computer transmits to at least one of said plurality of data generating machines one or more audible and/or visual advertisements. Weigen discloses the idea of delivering advertising messages to a vending machines or dispensers (col. 1 line 26 through col. 2 line 54). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify the disclosures of Wichter et al to include transmitting an audible advertisement as evidenced by Weigen. In so doing, would allow a marketer to capture a consumer's attention.

With respect to claims 21-24, they are rejected based upon similar rationale as above dependent claims 11-12.

As per claims 26 and 42, the combination of Wichter et al and Weigen fails to disclose the advertisements is transmitted at one or more times corresponding to a predetermined level of network traffic. However, Official Notice is taken that it is old and well known in the computer network to transmit advertising at one or more times corresponding to a predetermined level of network traffic for fast transfer of the advertisement. It would have been obvious to person of ordinary skill in the art to include this well known feature into Wichter and Weigen in order to obtain accurate user responses and to strategically market products and services.

### Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Konsmo et al (U.S. Patent No. 5,844,808) disclose a method for collecting data concerning sales event from remote vending machines.

b. Bernard et al (U.S. Patent No. 5,918,213) discloses determining a customer habits and preferences based on collected analyzed data.

c. Takahashi (U.S. Patent No. 6,021,394) discloses a sales management method for collecting sales data from vending machines.

d. Howell et al (U.S. Patent No. 6,462,644) discloses a network of vending machines connected to a host of computer.

e. Kolls (Wo9607134) discloses a vending machine control for controlling vending of items from one or more vending machines.

f. Smith (Wo9728510) discloses a remote ordering devices/data generating machines that allows an operator to download advertising information and promotional to be presented to consumers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached Monday-Thursday from 7:30 am to 6:00 pm. If attempts to reach the examiner are not successful, the examiner's supervisor, Tariq R Hafiz can be reached at (703) 305-9643.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

or faxed to: (703) 305-7687

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,  
Arlington VA, Seventh floor receptionist.



Romain Jeanty

Primary Examiner

December 29, 2003